

Proceedings of the Arizona Game and Fish
Commission License Revocation and Civil
Assessment Hearings
Time Certain – 2:00 p.m.
Friday, December 4, 2015
Arizona Game and Fish Department
5000 W. Carefree Highway
Phoenix, Arizona 85086

PRESENT: (Commission)

(Director's Staff)

Chairman Kurt R. Davis
Commissioner Edward "Pat" Madden
Commissioner James R. Ammons
Commissioner James S. Zieler
Commissioner Robert E. Mansell

Director Larry D. Voyles
Deputy Director Ty E. Gray
Assistant Attorney General Jim Odenkirk
Assistant Attorney General Linda Pollock

Hearings on License Revocations for Violation of Game and Fish Codes and Civil Assessments
for the Illegal Taking and/or Possession of Wildlife

Presenter: Gene Elms, Law Enforcement Branch Chief

Mr. Elms presented the cases below to the Commission. Each of these cases were reviewed and it was determined that all cases met the criteria established in A.R.S. §17-238, §17-245 §17-314, §17-340, §17-362, §17-363 and/or §17-502 for Commission action. The Commission and the respondents were provided with copies of the original court docket and case reports prepared by the officers along with copies of all other pertinent materials in each of these cases. Each of the following individuals was legally noticed for this hearing.

Name	Docket #	Count	Conviction
Samuel J. Reynolds	2015-0060	Count C:	Possess/transport big game without evidence of legality (Elk)
Dennis P. Kleinschmit	2015-0066	Count B:	Waste of game meat (Bighorn Sheep)
Mike J. Harris	2015-0077	Count B:	Transport big game without a tag (Mountain Lion)
		Citation A08925	
Larry D. Welch	2015-0078	Count A:	Obtain 2012 resident hunt/fish license by misrepresentation
		Citation A04604	
Jesus S. Cerda	2015-0079	Count A:	Obtain 2013 resident hunting license by misrepresentation
		Citation A04603	
		Count A:	Obtain 2014 resident deer tag by misrepresentation
Luis Arreola Jr.	2015-0080	Count B:	Take wildlife with unlawful method (Deer)
		Citation A04604	
Pedro Cendajas Cerda	2015-0081	Count A:	Obtain 2013 resident hunting license by misrepresentation
		Citation A04603	
		Count A:	Obtain 2014 resident deer tag by misrepresentation

Roll call was taken and the following were present: Samuel Reynolds and Mike Harris.

Mr. Elms stated that the civil assessment process is not intended to be punitive, but is a process allowing the Commission to recover financial damages to compensate the State for the loss of any wildlife. Hunter Education requirements are imposed as a remedial measure to increase knowledge and prevent future violations and not as punishment. The Commission was asked to consider and take action on the license revocations and/or civil assessments for the individuals listed above.

Motion: Mansell moved and Madden seconded THAT THE COMMISSION VOTE TO TAKE JURISDICTION IN THESE CASES.

Vote: Unanimous

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Samuel J. Reynolds
Docket # 2015-0060

Reynolds was found guilty by the Flagstaff Justice Court for Count C: Possess/transport big game without evidence of legality (elk); and sentenced: Fined \$185.00.

Reynolds was present and addressed the Commission accompanied by his attorney.

Ben Green, Reynolds attorney, addressed the Commission on behalf of his client. Mr. Reynolds has accepted responsibility, has never been in trouble before, and this was his first elk hunt. Additionally, in looking at the rules, it appears that this particular charge that Reynolds pled to does not meet the requirements for revocation.

Chairman Davis discussed with Mr. Green that an elk was taken without the person that owned the tag and the report states that Mr. Reynolds talked to others and told them not to cooperate.

Commissioner Zieler stated that the officers used some discretion in what Mr. Reynolds was charged with. They could have cited for tagging the elk illegally and for some significant littering, which is a revocable offense in itself.

Case Officer Adams was present and addressed the Commission to answer questions. He confirmed that some of the witnesses would not go on record to say anything because they were intimidated by Mr. Reynolds.

Assistant Attorney General Jim Odenkirk advised the Commission on the question of transporting big game without evidence of legality as being a revocable offense. A.R.S 17-340 states that on conviction the Commission may revoke or suspend a license for a period not to exceed five years for unlawful taking, unlawful selling, unlawful offering for sale, unlawful bartering, or unlawful possession of wildlife. The actual conviction for this case was for A.R.S. 17-309 that says unless otherwise prescribed by this title, it is unlawful for a person to possess or transport the carcass or parts of a carcass that cannot be identified as to species or legality. The

Commission's revocation authority to revoke a license for unlawful possession is an umbrella provision that captures any violation that involves unlawful possession.

Motion: Madden moved and Mansell seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF SAMUEL J. REYNOLDS TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST SAMUEL J. REYNOLDS, TO COLLECT THE AMOUNT OF \$2,500.00 FOR THE LOSS OF ONE (1) COW ELK; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Mike J. Harris
Docket # 2015-0077

Harris was found guilty by the Sahuarita Municipal Court for Count B: Transport big game without a tag (mountain lion); and sentenced: Fined \$459.00.

Harris was present and addressed the Commission. He understood that the mountain lion was going to be thrown away by the two ranch hands that shot it, so he made the decision to tag it as his own rather than let it go to waste.

Commissioner Mansell confirmed with Mr. Harris that he did not buy the mountain from the ranch hands.

Officer Frieberg addressed the Commission from Region V via video teleconference, and answered questions on behalf of Case Officer Simmons.

Commissioner Zieler confirmed with Mr. Odenkirk that if Mr. Harris' hunting license was revoked, it would affect his ability to guide.

Motion: Ammons moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MIKE J. HARRIS TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF ONE (1) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE

THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner Zieler explained that Mr. Harris' guide license is involved and that Mr. Harris was honest, forthcoming and has shown remorse.

Vote: Aye - Ammons, Zieler
Nay - Mansell, Davis, Madden,
Failed 2 to 3

Motion: Mansell moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MIKE J. HARRIS TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF THREE (3) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye - Madden, Mansell
Nay - Davis, Ammons, Zieler
Failed 2 to 3

Commissioner Ammons suggested an amendment for no revocation and just Hunter Education.

The amendment was not accepted.

Motion: Davis moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF MIKE J. HARRIS TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF TWO (2) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Aye - Davis, Madden, Zieler
Nay - Ammons
Passed 4 to 1

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Dennis P. Kleinschmit
Docket # 2015-0066

Kleinschmit was found guilty by the Kingman/Cerbat County Justice Court for Count B: Waste of game meat (bighorn sheep); and sentenced: Fined \$600.00.

Kleinschmit was not present.

Case Officer Holt was present.

Mr. Elms read a letter from Mr. Kleinschmit into the record (on file). The letter stated that Mr. Kleinschmit did not believe the investigation by the Department was forthwith and honest, and that the witness in the case was of questionable credibility.

Chairman Davis confirmed with Mr. Odenkirk that the Commission could not lower the civil assessment amount, but could only assess for one bighorn sheep.

Motion: Mansell moved and Madden seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF DENNIS P. KLEINSCHMIT TO HUNT, FISH, TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; THAT THE DEPARTMENT BE DIRECTED TO COLLECT CIVIL DAMAGES OR TO BRING CIVIL ACTION AGAINST DENNIS P. KLEINSCHMIT TO COLLECT THE AMOUNT OF \$8,000.00 FOR THE LOSS OF ONE (1) BIGHORN SHEEP; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Commissioner Ammons discussed with Mr. Odenkirk whether the fetus could be counted as a loss. Mr. Odenkirk stated that there is no precedence, but that one could expect that the fetus would grow up to be an adult and hunted which would make this a loss to the state.

Vote: Aye - Madden, Zieler, Mansell
Nay - Davis, Ammons
Passed 3 to 2

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Larry D. Welch

Docket # 2015-0078

Welch was found guilty by the Parker Justice Court for Citation A08925, Count A: Obtain 2012 resident hunt/fish license by misrepresentation; and sentenced: Fined \$422.00 and ordered to pay restitution of \$525.00.

Welch was not present.

Case Officer Nemlowill was present.

Chairman Davis stated for the record that Mr. Welch has a driver's license and registration to vote in California, he has residential property and assumes a property tax credit that only residents can assume in California. There are resident licenses in two states for two years, there are income taxes filed in California and a disposition of a California resident for health insurance purposes.

Motion: Madden moved and Zieler seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF LARRY D. WELCH TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Jesus S. Cerda

Docket # 2015-0079

Cerda was found guilty by the Desert Ridge Justice Court for Citation A04604, Count A: Obtain 2013 resident hunting license by misrepresentation; Citation A04603, Count A: Obtain 2014 resident deer tag by misrepresentation; and sentenced: Combined fined \$986.00 and ordered to pay restitution of \$1,448.50.

Cerda was not present.

Case Officer Konke was present and addressed the Commission and added that there were a total of six licenses, two tags, and six other applications that he applied for that he wasn't charged.

Chairman Davis noted that Mr. Cerda has a valid California driver's license and an ID card in Arizona. He had vehicles registered in California and owned a residential property in California and received a \$7000 residential tax credit. Does not own property in Arizona and used several other addresses to obtain licenses and tags.

Motion: Ammons moved and Davis seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF JESUS S. CERDA TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Luis Arroela Jr.
Docket # 2015-0080

Arreola Jr. was found guilty by the Wellton Justice Court for Count B: Take wildlife with unlawful method (deer); and sentenced: Fined \$311.20.

Arreola Jr. was not present.

The Case Officers were present via video teleconference from Region IV.

Motion: Madden moved and Mansell seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF LUIS ARREOLA JR. TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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Pedro C. Cerda

Docket # 2015-0081

Cerda was found guilty by the Desert Ridge Justice Court for Citation A04604, Count A: Obtain 2013 resident hunting license by misrepresentation; Citation A04603, Count A: Obtain 2014 resident deer tag by misrepresentation; and sentenced: Combined fine of \$986.00 and ordered to pay restitution of \$1,165.50.

Cerda was not present.

Case Officer Kohnke was present and answered questions for the Commission.

Chairman Davis confirmed with Officer Kohnke that Cerda had a valid driver's license in California, does not have an Arizona driver's license, has vehicles registered in California, owns residential property in California for which he obtained a \$7000 tax credit, does not own property in Arizona, used other people's addresses to obtain license and tags, registered to vote in California, and obtained resident licenses in California.

Motion: Zieler moved and Ammons seconded THAT THE LICENSE(S) AND/OR LICENSES PRIVILEGES OF PEDRO C. CERDA TO HUNT, FISH AND TRAP IN THE STATE OF ARIZONA BE REVOKED AND HE BE DENIED ANOTHER FOR A PERIOD OF FIVE (5) YEARS; THAT THE CURRENT LICENSE(S) BE SUSPENDED AS OF THE DATE OF THIS HEARING, AND THAT IT/THEY BE REVOKED AS OF THE DATE THE ORDER IN THIS CASE IS SIGNED BY THE DIRECTOR; THAT HE BE REQUIRED TO COMPLETE THE HUNTER EDUCATION COURSE, AND PROVIDE PROOF TO THE DEPARTMENT'S LAW ENFORCEMENT BRANCH, BEFORE APPLYING FOR ANY OTHER LICENSE TO HUNT IN THIS STATE; AND FURTHER MOVE THAT THE DIRECTOR, AS SECRETARY TO THE COMMISSION, BE DIRECTED TO SIGN AND ISSUE A FINDING OF FACT, CONCLUSIONS OF LAW AND AN ORDER IN THIS MATTER PURSUANT TO THIS MOTION.

Vote: Unanimous

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These hearings concluded at 3:00 p.m.

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